

# Houses in Multiple Occupation

Licensing



guide



for



landlords



in the West Midlands

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**This booklet has been produced jointly by Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton councils.**

*The 2004 Housing Act, which received Royal Assent in November 2004, should come into force in October 2005.*

The Act proposes the introduction of licensing of Houses in Multiple Occupation (HMOs). It will be compulsory to license larger, higher-risk HMOs. Councils will also be able to license other types of HMO to tackle problems in these smaller properties.

### *So, what is a HMO?*

HMO stands for House in Multiple Occupation, which means a building, or part of a building, such as a flat, that:

- is occupied by more than one household and where more than one household shares – or lacks – an amenity, such as a bathroom, toilet or cooking facilities
- is occupied by more than one household and which is a converted building – but not entirely self-contained flats (whether or not some amenities are shared or lacking)
- is converted self contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulation, and at least one third of the flats are occupied under short tenancies.

The building is occupied by more than one household:

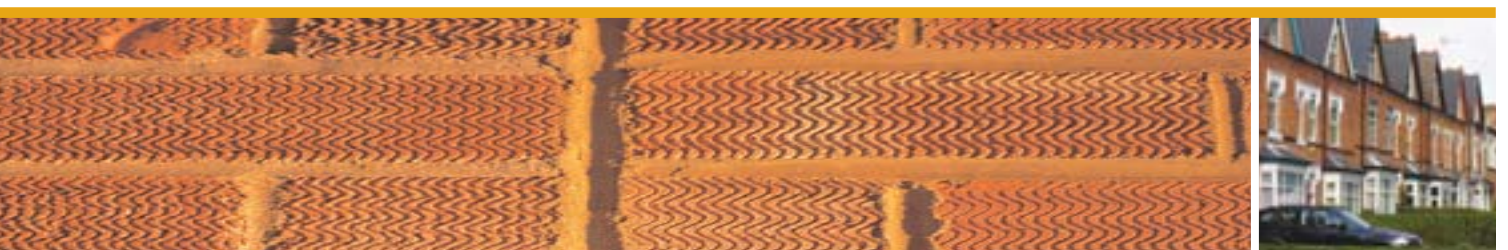
- as their only or main residence
- as a refuge for people escaping domestic violence
- by students during term time
- for other purposes prescribed by the government.

A household is:

- families (including single people, couples and same sex couples)
- other relationships, such as fostering, carers and domestic staff.

### *Why does the government want HMOs to be licensed?*

Larger HMOs, such as bedsits and shared houses, often have poorer physical and management standards than other privately rented properties. The people who live in HMOs are amongst the most vulnerable and disadvantaged members of society. As HMOs are the only housing option for many people, the government recognises that it is vital that they are properly regulated.



Licensing is intended to make sure that:

- landlords of HMOs are fit and proper people, or employ managers who are
- each HMO is suitable for occupation by the number of people allowed under the licence
- the standard of management of the HMO is adequate
- high risk HMOs can be identified and targeted for improvement.

Where landlords refuse to meet these criteria the council can intervene and manage the property so that:

- vulnerable tenants can be protected
- HMOs are not overcrowded
- councils can identify and support landlords, especially with regeneration and tackling antisocial behaviour.

### *Do all HMOs have to be licensed?*

No. Under the new Housing Act 2004, which comes into force in autumn 2005, there will be three types of licensing:

1) **Compulsory** (required by law) licensing of HMOs for properties that are:

- 3 or more storeys high

- have five or more people in more than one household, and
- share amenities such as bathrooms, toilets and cooking facilities.

Please check the flow diagram on page 6 to see if your property (or properties) needs to be licensed.

### 2) **Additional** licensing of HMOs

A discretionary power that councils may decide to apply to a particular type of HMO, for example, two storey properties occupied by three or more students or asylum seekers.

### 3) **Selective** licensing of other residential accommodation

Properties that are not subject to HMO licensing would be covered under the selective licensing scheme. This is where the council may declare that certain areas, for example, where there is low demand for housing and/or antisocial behaviour, are appropriate for selective licensing. This licensing would cover all forms of private rented housing, including HMOs.

It is most likely that at first councils will only introduce licences for HMOs that fall into the first group. They may introduce the other two types of licensing later.



Please note that licensing only applies to HMOs where rents or other considerations are payable

### *How will it work?*

Anyone who owns or manages a HMO that must be licensed has to apply to the council for a licence.

The council must give a licence if it is satisfied that the:

- HMO is reasonably suitable for occupation by the number of people allowed under the licence
- proposed licence holder is a fit and proper person
- proposed licence holder is the most appropriate person to hold the licence
- proposed manager, if there is one, is fit and proper
- proposed management arrangements are satisfactory, the person involved in the management of the HMO is competent and the financial structures for the management are suitable.

### *What does a 'fit and proper person' mean?*

The council will carry out checks to make sure that the person applying for the licence is a fit and proper person. In deciding whether

someone is fit and proper the council must take into account:

- any previous convictions relating to violence, sexual offences, drugs and fraud
- whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues
- whether the person has been found guilty of unlawful discrimination
- whether the person has previously managed HMOs that have broken any approved code of practice.

It is advisable for the landlord or manager to be a member of a professionally recognised body, or an approved landlords association that is affiliated to the National Federation of Residential Landlords.

### *What is in a licence?*

The licence will specify the maximum number of people who may live in the HMO. It will also include the following conditions, which apply to every licence:

- a valid current gas safety certificate, which is renewed annually, must be provided
- proof that all electrical appliances and furniture are kept in a safe condition



- proof that all smoke alarms are correctly positioned and installed
- each occupier must have a written statement of the terms on which they occupy the property, for example, a tenancy agreement.

Councils may also apply the following conditions:

- restrictions or prohibitions on the use of parts of the HMO by occupants
- the landlord or manager must take steps to deal with the behaviour of occupants or visitors
- to ensure that the condition of the property, its contents, such as furniture and all facilities and amenities, bathroom and toilets for example, are in good working order
- to carry out specified works or repairs within a particular timeframe
- a requirement that the responsible person attends an approved training course.

### *How long will it last?*

A licence will normally last for a maximum of five years, although it can be for a shorter period.

### *How much will it cost?*

Landlords will have to pay a fee to cover the administration costs of the licence procedure.

This will vary depending on the amount of time and resources that are needed to satisfy all the licensing conditions.

### *Can the council refuse to license my property?*

Yes, if the property does not meet the conditions set out above and/or the landlord or manager is not a fit and proper person.

### *What will happen then?*

If a landlord fails to bring a HMO up to the required standard, or fails to meet the fit and proper person criteria, the council can issue an Interim Management Order (IMO), which allows it to step in and manage the property. The owner keeps their rights as an owner. This order can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, then the council can issue a Final Management Order. This can last up to five years and can be renewed.

### *Can I appeal?*

You may appeal if the council decides to:

- refuse a licence
- grant a licence with conditions



- revoke a licence
- vary a licence
- refuse to vary a licence.

You must appeal to the Residential Property Tribunal, normally within 28 days. Details of how to appeal will be available soon.

### *Temporary exemption from licensing*

If the landlord or person in control of the property intends to stop operating as a HMO or reduce the numbers of occupants and can give clear evidence of this, then she or he can apply for a Temporary Exemption Notice. This lasts for a maximum of three months and ensures that a property in the process of being converted from a HMO does not need to be licensed. If the situation is not resolved, then a second Temporary Exemption Notice can be issued. When this runs out the property must be licensed, become subject to an Interim Management Order, or cease to be a HMO.

### *Are there any other penalties?*

It is an offence if the landlord or person in control of the property:

- fails to apply for a licence for a licensable property

or

- allows a property to be occupied by more people than are permitted under the licence.

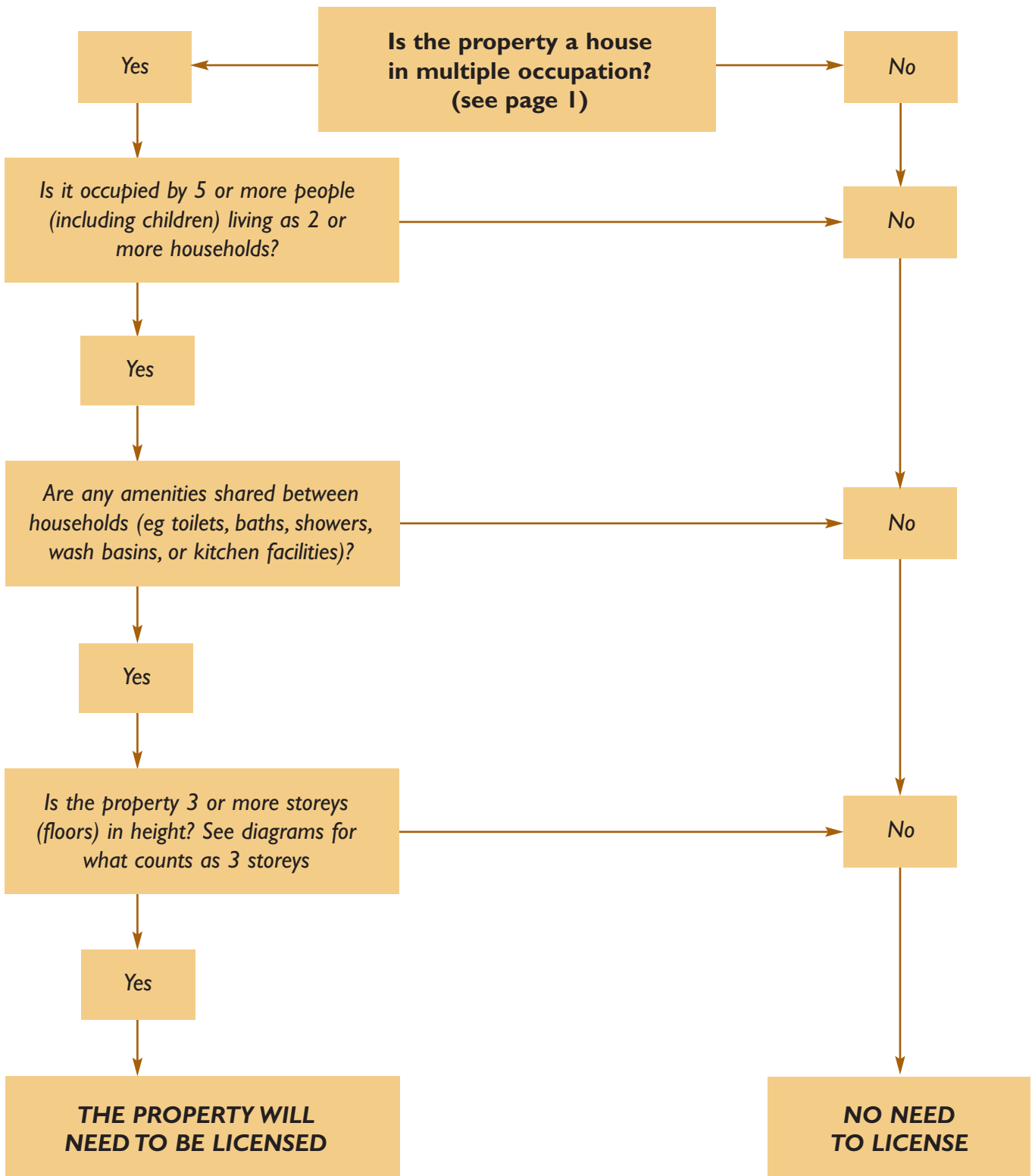
A fine of up to £20,000 may be imposed. In addition, breaking any of the licence conditions can result in fines of up to £5,000.

### *Rent repayment orders*

A tenant living in a property that should have been licensed, but was not, can apply to the Residential Property Tribunal to claim back any rent they have paid during the unlicensed period (up to a limit of 12 months). Councils can also reclaim any housing benefit that has been paid during the time the property was without a licence.



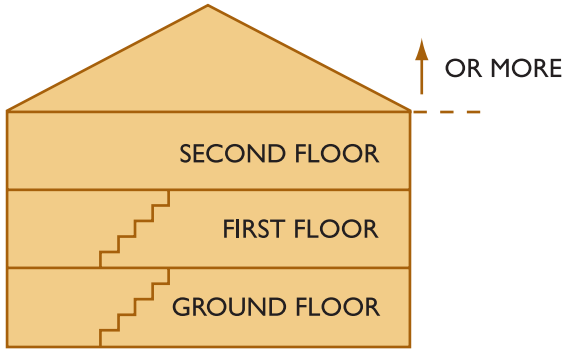
How do I know if my property needs to be licensed?



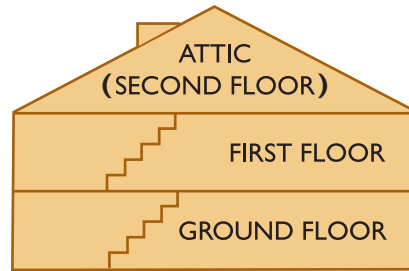


What counts as a property of 3 or more storeys in height?

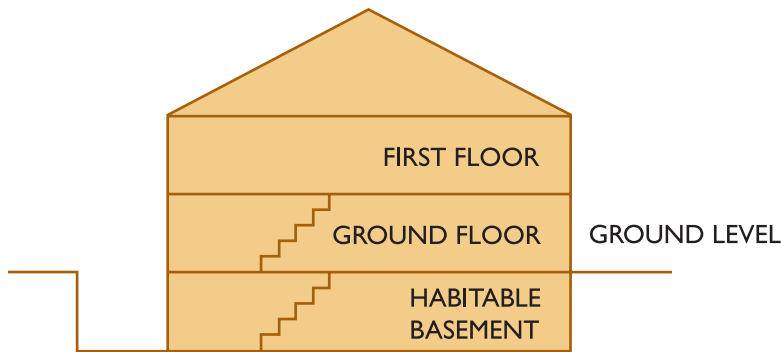
The following examples are the most likely types of property which will be counted:



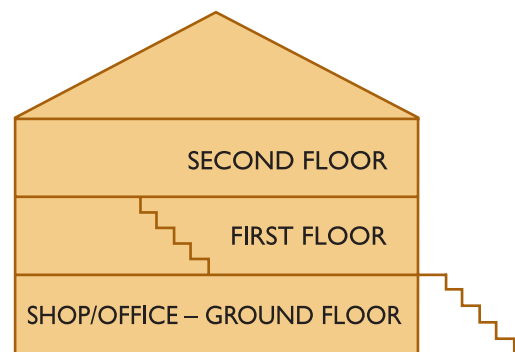
House with 3 or more floor levels



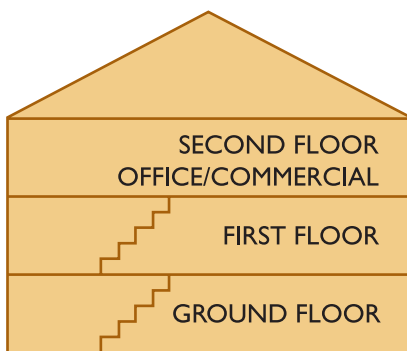
House with attic conversion



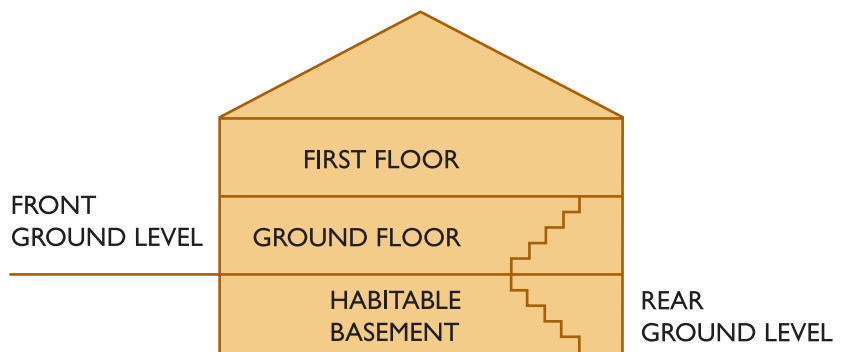
House with 2 floors above ground and a habitable basement



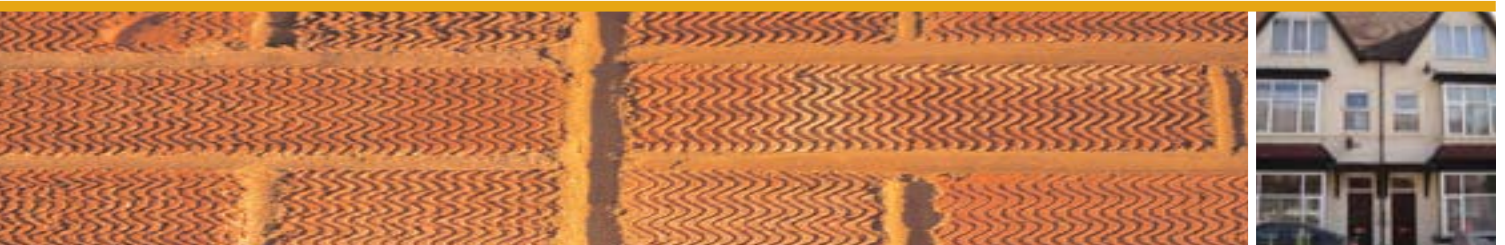
Property with three or more floor levels and a shop or other commercial use on the ground floor and living accommodation above.



Property with 3 or more floor levels. Living accommodation on the lower 2 levels and commercial use above.

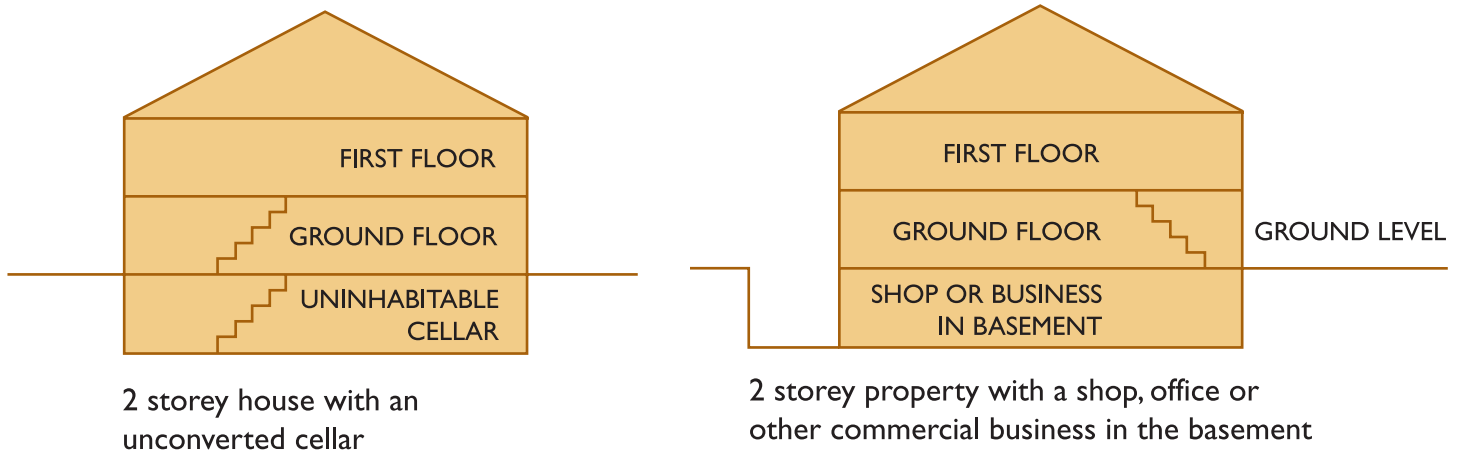


House on a sloping site with 2 floor levels at the front and 3 at the back



The following will not be counted as 3 or more storeys.

Any bungalow or house with only two floors (ground and first).



*Find out more*

If you want to find out more about licensing requirements visit the Office of the Deputy Prime Minister's website at: [www.odpm.gov.uk/licensing](http://www.odpm.gov.uk/licensing)

This booklet is not intended as an authoritative statement of the law. For further information on your legal rights and responsibilities, please refer to the Housing Act 2004 (available from The Stationery Office) or get advice from a solicitor.







*This booklet is endorsed by the following councils:*



**This booklet is available in large print, braille or on audiotape by telephoning 0121 303 7994.**